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A SUMMARY OF SELECTED BILLS TRULY AGREED TO AND FINALLY PASSED

by the

82nd General Assembly

First Regular Session



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Prepared By

Office of State Courts Administrator

September 1983

TABLE OF CONTENTS

S E N A T E B I L L S

Bill Number	Title	Page Number
9	Odometer Fraud	2
* 24	Witness Protection	2
40	Durable Power of Attorney	2
* 44 & 45	Guardianship	3
	(Attachment A)	13
72	Civil Disorder	3
75	Canceled Checks	3
* 94	Joint Custody	3
122	Community Corrections	4
211	Welfare of Animals	4
219	County Judges to Commissioners	4
* 275	State Legal Defense Fund	4
276	Criminal Law Changes	5
* 318 & 135	Alcohol and Drug Related Traffic	5
* 353	State Life Insurance	6
* 363	Licensing of Bailbondsmen	7
* 364	Law Library	7
* 368	Certification of Juveniles	8

* Bills of special interest to the clerks.

TABLE OF CONTENTS (CONTINUED)

H O U S E B I L L S

Bill Number	Title	Page Number
29	Child Restraint Law	9
* 81	Sheriffs Retirement	9
* 117	Trusts	9
	(Attachment B)	16
135 & 194	Joint Tortfeasors	10
* 175	Landlord Tenant Relations	10
* 279	States Right to Appeal	10
287	Leaving the Scene of an Accident	11
* 369	Administration of Estates	11
	(Attachment C)	18
494	Probation and Parole (Supervision of B & C Misd.)	11
671	Inmate Goodtime	11
672	Non-suit Judgments	12
703	Feigning Blindness	12
* 749	Adoption Law Correction	12

* Bills of special interest to the clerks.

INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts or which appear likely to come to the attention of the courts within a short time. The individual summaries cover the major points of the bills, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

The effective date for legislation is September 28, 1983, unless otherwise indicated.

These summaries were created with the assistance of materials provided by the Senate Divisions of Research and Administration, by the House of Representatives Research Staff and the House Legislative Information System, and by staff of the Committee on Legislative Research of the General Assembly.

We would like to thank Judge Don E. Burrell, Judge Pam Kline, Judge James H. Kelly, and Judge Robert Koffman for their assistance in reviewing those bills found in the attachment section of this summary.

For a copy of any bill, please direct your request to:

Senate Bill Room
State Capitol
Jefferson City, Missouri 65101 (Senate Bills)

House Post Office
State Capitol
Jefferson City, Missouri 65101 (House Bills)

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

SENATE BILLS

SENATE BILL NO. 9 - ODOMETER FRAUD IN MOTOR VEHICLES

Repeals Sections 301.280, 407.510, 407.515, 407.520, 407.525, 407.530, 407.536, 407.541, 407.545, 407.550 and 407.555 RSMo and enacts 15 new sections relating to disconnecting, altering or resetting odometers on motor vehicles.

The attorney general or prosecuting attorneys' authority to file and prosecute civil and criminal actions concerning odometer fraud is expanded. The court may enhance the sentence of anyone convicted of violating Sections 407.516, 407.521, 407.526, 407.542, or 407.543 of this act who has a prior conviction for any one of the foregoing sections. The provisions of this act become effective January 1, 1984.

HCS/SENATE BILL NO. 24 - WITNESS PROTECTION IN CRIMINAL TRIALS

Repeals Sections 542.276, 575.010, 575.270 RSMo 1978 and 542.271 RSMo (Supp. 1982) and enacts nine new sections known as Sections 542.271, 542.276, 575.010, 575.270, 2, 3, 4, 5 and 6.

Search and Seizure, the crime of tampering with a witness, witness protection, victim tampering, and the taking of depositions of essential witnesses are addressed in this bill. The bill expands the sections which set out when a warrant may be issued. Conduct which constitutes the crime of tampering with a witness is broadened and the crime of victim tampering is established. The bill additionally sets out new provisions stating that any form given by the clerk of any court, by any court, by any surety or bondsman requesting bail or bond, and any written promise to appear on one's own recognizance shall contain notice of the prohibited activities under this act in a conspicious location.

Also included are provisions by which the state may take and use a video taped deposition of an essential witness in a prosecution.

HCS/SENATE BILL NO. 40 - DURABLE POWER OF ATTORNEY

New sections are enacted allowing an individual to execute a writing creating a durable power of attorney. Provisions are also included in the bill dealing with procedures following the death of the principle, accounting by the attorney following appointment of a fiduciary, and the inclusion of the durable power of attorney in any such provisions relating to the conveying of real estate.

HCS/SCS/SENATE BILL NO. 44 & 45 - GUARDIANSHIP

This bill is a comprehensive revision of the statutes dealing with guardianship. This legislation introduces new terminology and establishes substitutes for old language. (For detailed summary, see Attachment A.)

HCS/SENATE BILL NO. 72 - RECORDS OF ARREST AND POWERS OF ARREST AND THE CRIME OF PROMOTING CIVIL DISORDER

Repeals Sections 544.215 RSMo 1978 and 57.112 and 610.120 RSMo (Supp. 1982) and enacts Section 610.120, Section 2, and Section 3. The bill allows closed records under Chapter 610 to be made available to federal agencies for purposes of prosecution, litigation, sentencing, parole consideration and such investigative purposes as authorized by law or presidential executive order. The arrest powers of certain police officers in the state are broadened and the crime of promoting civil disorder in the first degree is established.

SS/SENATE BILL NO. 75 - STOPPING PAYMENT ON CHECKS

Chapter 570 is amended by adding Section 570.125. The new section establishes the crime of fraudulently stopping payment of an instrument. A person commits the crime of fraudulently stopping payment of an instrument if he, knowingly, with intent to defraud, stops payment of a check or similar sight draft given in payment for receipt of goods or services. The bill also sets out what shall constitute proper notice by the payee for evidentiary purposes.

HS/HCS/SS/SCS/SENATE BILL NO. 94 - JOINT CUSTODY

Amends Sections 452.375 and 452.400 relating to factors to be used in determining child custody and visitation rights. The bill authorizes a court to award joint custody of children in dissolution proceedings and sets out conditions under which joint custody may be awarded.

Maternal or paternal grandparents are also given the right to intervene in a dissolution action on the issue of visitation and may be granted reasonable visitation rights.

CCS/HCS/SCS/SENATE BILL NO. 122 - COMMUNITY CORRECTIONS PROGRAM

Repeals Section 217.775 RSMo (Supp. 1982) and enacts three new sections known as Sections 1, 2 and 217.775.

The Board of Probation and Parole will have responsibility for administering a community corrections program. Circuit courts will have the authority to grant probation to a defendant up to one hundred twenty days after commitment to the Division of Adult Institutions. Upon granting probation the court may place the defendant in a community corrections program or may place the defendant on probation and impose any other conditions authorized by law.

HCS/SCS/SENATE BILL NO. 211 - ANIMAL WELFARE

Repeals Sections 578.055 and 578.060 RSMo 1978 and enacts nine new sections. Crimes concerning animal abuse and neglect are set out in this bill.

A duly authorized public health or law enforcement official may seek a warrant from the appropriate court to enable him to enter private property in order to inspect, care for or impound neglected or abused animals.

SENATE BILL NO. 219 - COUNTY JUDGES CHANGED TO COUNTY COMMISSIONERS

Section 49.010 is revised and changes the name of non-charter counties governing body from "county court" to "county commission" and the names of its officers from "county judges" to "county commissioners". This bill becomes effective January 1, 1985.

SENATE BILL NO. 275 - STATE LEGAL EXPENSE FUND

Section 105.710 is repealed and four new sections known as Sections 105.711, 105.716, 105.721 and 105.726 are enacted. The "State Legal Expense Fund" is created to replace the Tort Defense Fund. A fund is created to pay final judgments upon claims against the State of Missouri, or any agency thereof, including any officer or employee of the State of Missouri, without limitation to elected officials, appointees, members of state boards or commissions and members of the Missouri National Guard. The conditions for coverage and maximum claims are also set out in the bill.

HCS/SCS/SENATE BILL NO. 276 - REVISION OF THE HOMICIDE LAW

Sections 546.070, 562.076, 565.001, 565.003, 565.004, 565.008, 565.014, 565.016, 565.021, 565.026, 565.031, 565.050 and 565.060 RSMo 1978 and Sections 556.061, 565.005, 565.006, 565.012 and 577.005 RSMo (Supp. 1982) are repealed and 21 new sections enacted.

The crime of homicide is codified in the same manner as other offenses in the Criminal Code. The section concerning jury instructions is changed. The definition of a "dangerous felony" and "serious physical injury" is expanded. A section is added, which in part excuses conduct which would normally be criminal under Chapter 565 RSMo.

Considerable changes are effected under Chapter 565 RSMo. Venue is broadened, a definitional section is added, culpable mental state and a defense based on the length of time between the conduct which results in a death and the event of such death are addressed.

Also set out under Chapter 565 RSMo are provisions amending the elements of a homicide offense and the trying of the same along with other offenses; disclosure requirements and waiver of a trial by jury. Murder in the first degree, murder in the second degree, voluntary manslaughter and involuntary manslaughter are defined. Lesser offenses to be considered by the trier are listed.

The bill describes the circumstances under which the proceeding in a homicide case shall be one or two stages and expands the section dealing with aggravating and mitigating circumstances. Considerations during Supreme Court review are expanded on cases where the death penalty was imposed, the authority of the Supreme Court with regard to review is broadened and the Supreme Court review of an appeal and sentence is now consolidated. Also included in the bill are provisions in the event the death penalty is held to be unconstitutional.

First and second degree assault are re-defined.

The effective date of this bill is July 1, 1984.

CCS/HCS/SCS/SENATE BILL NOS. 318 & 135 - ALCOHOL AND DRUG RELATED TRAFFIC OFFENSES

Sections 302.321 RSMo 1978 and Sections 302.304, 577.020, 577.023 and 577.037 RSMo (Supp. 1982) are repealed and 14 new sections enacted relating to certain procedures in alcohol and drug related traffic offenses.

Exceptions to reinstatement of a drivers license are introduced, periods of suspension are revised and requirements for reinstatement of a license due to a suspension for driving while intoxicated or blood alcohol content offense are amended.

The punishment for an individual who drives while his license and privilege is cancelled, revoked or suspended is strictly defined and implied consent to a chemical test of the breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the blood is limited to individuals "driving upon the public highways of this state".

Section 577.073 is revised extensively. It now includes a definition section, specific punishment alternatives, and sets out considerations under which the court shall find a defendant to be a prior offender or persistent offender. Procedures regarding the pleading, establishing and finding of the facts with regard to a prior and persistent offender are described. The sentencing hearing and actual sentencing of the prior or persistent offender are also addressed.

What constitutes a prior conviction for municipal or county ordinance violations in a municipal or county court for driving while intoxicated is amended and an exception is establsihed regarding municipal and county violation convictions for purposes of enhancing a term of imprisonment.

Elements to be considered by the court are set out which may cause the court to find a dismissal unwarranted where a blood alcohol content analysis indicates less than ten-hundredths of one percent of alcohol in the defendants blood.

New sections are introduced which require the Department of Revenue to suspend the license of any person that was arrested upon probable cause to believe he was driving a motor vehicle while the alcohol concentration in the persons'blood or breath was thirteen-hundredths of one-percent or more by weight of alcohol in his blood. Procedures for law enforcement and the Department of Revenue regarding the surrender of the license, the suspension of the license, an appeal of the suspension and a reinstatement of the license are also described.

SENATE BILL NO. 353 - STATE EMPLOYEE LIFE INSURANCE

Section 104.515 RSMo (Supp. 1982) is repealed and one new section enacted in its place. State employees are allowed to purchase an amount of additional life insurance equal to three times their annual salary, rounded up to the nearest thousand dollars, on or after May 1, 1984. In addition this bill raises the state contribution for various health and life insurance benefits from $55.40 per month to $65.40 per month, per employee.

A state employee retiring on or after May 1, 1984, will be allowed to retain up to $5,000 in optional life insurance whereas currently he is limited to $2,500. This bill contained an emergency clause which made its effective date July 1, 1983.

SENATE BILL NO. 363 - LICENSING OF BAILBONDSMEN

This bill enacts new sections providing for the regulation and licensing of bailbond agents or general bailbond agents by the Division of Insurance. Additional requirements for both resident and non-resident applicants for licensing as a bailbond agent are set out.

Procedures are set out by which the agent is given first opportunity to return any defendant who has absented himself in violation of his bond. If the agent is unable to return the defendant all costs incurred by the state in returning a defendant may be levied against the agent in question. When issuing bonds of $1,000 or less a bailbond or general bailbond agents may charge a minimum premium of $50.00. Each general bailbond agent is required to file between the first and tenth of each month a sworn affidavit with the Division of Insurance stating there are no unsatisfied judgments against him. Persons currently practicing as bailbond agents or general bailbond agents must be licensed within twelve months of the effective date of this bill.

SENATE BILL NO. 364 - LAW LIBRARY FEES

Sections 514.470 and 514.475 RSMo 1978 are repealed and two new sections enacted.

This bill allows circuit court judges in second, third and fourth class counties to increase by local court rule the law library fee to a sum not to exceed $10.00.

St. Louis City and St. Louis County ciruit courts are allowed to charge a library fee up to but not exceeding $10.00. (Section 514.449 RSMo dealing with the law library fee in class one counties has not been changed.)

In all second class counties which are required by law to hold circuit court in two cities and a law library is maintained in each, the circuit judges of the circuit court may, by local court rule, establish a law library fee not to exceed $15.00.

SENATE BILL NO. 368 - PROSECUTION OF CERTAIN JUVENILES

Sections 211.071 RSMo 1978 and 211.031 RSMo (Supp. 1982) are repealed and two new sections known as Sections 211.071 and 211.031 are enacted. The transfer of a proceeding from one juvenile court to another juvenile court and the certification of juveniles to stand trial as adults is addressed in this bill.

The sections dealing with the transfer of a juvenile matter from one court to another are expanded.

Upon apprehension and arrest for a criminal offense jursidiction by the juvenile court of any person between the ages of 17 and 21 shall terminate. Knowing and willful age misrepresentation by a juvenile shall not affect any action or proceeding which occurs based upon the misrepresentation.

Written notification of a transfer hearing shall be given to the juvenile and his custodian in the same manner as provided in Sections 211.101 and 211.111 unless the custodian waives his right to notice. The juvenile officer may consult with the office of the prosecuting attorney concerning any offense for which the child could be certified as an adult. A written report is to be prepared by the juvenile officer developing fully all information relevant to the court in determining whether or not the child is to be certified. Eight criteria are listed for consideration when certifying a juvenile. Once a child is prosecuted and convicted as an adult, the juvenile court shall no longer have jurisdiction over the child for any violation of state law or municipal ordinance.

HOUSE BILLS

HOUSE BILL NO. 29 - CHILD RESTRAINT SYSTEMS IN A MOTOR VEHICLE

This bill enacts new provisions relating to child restraint systems in a motor vehicle.

Effective January 1, 1984, every person residing in this state when transporting a child under the age of four in a motor vehicle is responsible for providing protection for that child. This act provides in part that when traveling in the front seat, the child shall be protected by a child passenger restraint system approved by the Department of Public Safety. When traveling in the rear seat, the child shall be protected by a child passenger restraint system or the vehicle's seat belt.

CCS/SS/HOUSE BILL NO. 81 - SHERIFF'S POWERS AND RETIREMENT

Chapter 57 RSMo is amended by enacting 18 new sections.

This bill permits a county sheriff to enter into an agreement with a city, town, or village to enforce the ordinances of the city, town or village in the same manner as the local police.

This bill also authorizes the creation of a retirement system for all sheriffs except those in the City of St. Louis and St. Louis and Jackson Counties. After the effective date of the establishment of this system, in addition to all other legal costs in each civil suit, action, case and all other proceedings of a civil nature filed in each circuit court, and the divisions thereof, except juvenile divisions there shall be assessed and collected in the manner as other civil court costs are collected a sum of three dollars ($3.00) and in all criminal cases a sum of two dollars ($2.00) but no such costs shall be assessed when costs are to be paid by the state for indigent defendants. Provisions are made for the clerk, or other official responsible for collection of court costs to collect, remit and account for the moneys for this fund.

NOTE: The retirement system has not yet been established, therefore, the effective date for the collection of additional court costs has not been determined.

HOUSE BILL NO. 117 - RELATING TO TRUSTS

This bill makes numerous revisions in the statutes dealing with trusts. Eleven sections of Chapter 456 are repealed and 58 new sections are enacted. (For detailed summary, see Attachment B.)

HCS/HOUSE BILL NO. 135 & 194 - CONSTRIBUTIONS BETWEEN JOINT TORTFEASORS

Repeals Section 537.060 and enacts a new section to be known as 537.060.

Conditions are established regarding an agreement by release, or covenant not to sue or not to enforce a judgment, given in good faith and how such an agreement or convenant affects all tortfeasors. Non-contractual indemnity is defined.

HOUSE BILL NO. 175 - LANDLORD TENANT RELATIONSHIPS

Repeals Sections 535.030, 535.110, 535.160 and enacts four new sections known as 535.030, 535.110, 535.160, and 1.

This bill deals with landlord tenant cases and provides for notice requirements, procedures to be followed by the judge after a default judgment is rendered and bond and security requirements to affect a stay of execution pending determination of a trial de novo or appeal.

Security deposits, return of a deposit, withholding a deposit, inspection of the premises and recovery of a wrongfully withheld deposit are also addressed in the bill.

HOUSE BILL NO. 279 - STATES RIGHT TO APPEAL

Repeals Sections 547.200 and 547.230 RSMo 1978 and enacts two new sections in lieu thereof.

The state may appeal through the prosecuting or circuit attorney any order or judgment that result in the quashing of an arrest warrant; suppression of evidence; or suppressing a confession or admission.

An appeal made pursuant to Section 547.200(1) of this act shall be an interlocutory appeal and would be filed in the appropriate district of the Missouri Court of Appeals. Cases of capital murder or murder in the first degree would be appealed to the Supreme Court of Missouri.

Notice of an appeal of an order or judgment that quashed an arrest warrant; suppressed evidence; or suppressed a confession or admission shall be filed in the appropriate court within five days of the entry of the order of the trial court. The time requirements of

section 545.780 RSMo shall be tolled until the decision is rendered and the Supreme Court shall issue appropriate rules to facilitate disposition of such appeals. The section setting out the state's right to sue out a writ of error is also amended.

HOUSE BILL NO. 287 - LEAVING THE SCENE OF AN ACCIDENT

The statute concerning leaving the scene of a motor vehicle accident (577.060 RSMo) is broadened to include leaving any accident which occurs on any publicly or privately owned parking lot or facility generally open for public use. Additionally, peace officers shall have jurisdiction, when invited by an injured person, to enter the premises of any privately owned parking lot or parking facility to investigate an accident and perform all necessary duties regarding the accident.

HOUSE BILL NO. 369 - ADMINISTRATION OF ESTATES

This bill repeals Sections 473.657 RSMo 1978, Sections 473.033, 473.310, 473.800 and 473.840 RSMo (Supp. 1982) and enacts eight new sections dealing with the administration of estates. (For detailed summary, see Attachment C.)

HOUSE BILL NO. 494 - PROBATION AND PAROLE BOARD NOT REQUIRED TO SUPERVISE PERSONS CONVICTED OF CLASS B OR C MISDEMEANORS

Section 217.750 is repealed and enacted in lieu thereof a new Section 217.750.

Under this statute at the request of a judge of any circuit court, the board shall continue to provide probation services with the following exception: The Board of Probation and Parole is no longer required to supervise the probation and parole of any person convicted of a class B or C misdemeanor, but may in the discretion of the board accept such a person for supervision.

HOUSE BILL NO. 671 - DEPARTMENT OF CORRECTIONS AUTHORIZED TO REWARD INMATES FOR GOOD BEHAVIOR

This bill enacts a new section relating to the "good time" policy for an inmate committed to the Department of Corrections and Human Resources.

Persons committed to the Department of Corrections and Human Resources, other than persons convicted of capital murder or as a persistant sexual offender, may receive good time credit upon recommendation by the inmate's institutional superintendent.

HOUSE BILL NO. 672 - NONSUIT JUDGMENTS

Section 517.670 is repealed and a new section is enacted to provide that a judgment of nonsuit for failure to prosecute an action to judgment may be rendered against a plaintiff at the discretion of the judge rather than within two years after its institution.

SCS/HOUSE BILL NO. 703 - FEIGNING BLINDNESS IS CLASS A MISDEMEANOR

The crime of feigned blindness is established. Any person who pretends or simulates blindness for the purpose of obtaining something of value from another person commits a class A misdemeanor of feigned blindness.

HOUSE BILL NO. 749 - ADOPTION LAW CORRECTION

A technical error was made in a provision of law adopted last year (House Bill 1171, et al) concerning the service of parties in an adoption proceeding. This bill simply corrects subdivisions listed incorrectly in the original bill. Section 453.060.2 RSMo (Supp. 1983) now reads "any person whose consent to the adoption, according to the allegations of the petition for adoption, is not required for one of the reasons set forth in subdivisions (1) or (4) of Section 453.040".

This bill contains an emergency clause and became effective upon being signed by the governor.

ATTACHMENTS

ATTACHMENT A

HCS/SCS/SENATE BILL No. 44 & 45

GUARDIANSHIP

DETAILED SUMMARY

Some of the major provisions of the bill include:

(1) Allows for a more functional approach in dealing with individuals that have varying degrees of disability or incapacity.

(2) A parent of a minor, by a properly executed power of attorney, may delegate powers regarding care and custody to another individual for a three month period. (Section 475.024 RSMo)

(3) Venue for purposes of appointment of guardian or conservator may be assumed by a county other than the county of domicile if the alleged incapacitated or disabled person has resided there for over one year. (Section 475.035 RSMo)

(4) Outlines the election process for the choosing of a guardian or conservator. Respondent may nominate the person preferred if suitable to the court. (Sections 475.045 and 475.050 RSMo)

(5) A non-resident may serve as a guardian or conservator. (Section 475.055)

(6) Allows for the combining of a petition for appointment of a conservator with a petition for the appointment of a guardian. (Section 475.061 RSMo)

(7) Establishes requirements for personal service, appointment of attorney, endorsement of witnesses, burden of proof, respondents rights, and procedures for court ordered medical examinations and emergency situations in guardian and conservator cases. (Section 475.075 RSMo)

(8) Applies the least restrictive environment doctrine as required by the Mental Health Law. (Section 475.075 (10) RSMo)

(9) Describes the effect of an adjudication of incapacity or disability as compared to partial incapacity or disability. (Section 475.078 RSMo)

(10) Provides for an annual personal status review of wards and protectees. (Section 475.078)

(11) Conditions described under which the authority of a guardian or conservator terminate or are ordered terminated by the court. (Section 475.083 RSMo)

(12) No filing fee is required as to indigent respondents. Costs are taxed after the court rules on the petition. (Section 475.085 RSMo)

(13) Powers and duties of the guardian are outlined. (Section 475.120)

(14) States provisions and procedures for the admission of wards to mental health and mental retardation facilities. (Section 475.121 RSMo)

(15) Provides for medical consent in emergency situations. (Section 475.123 RSMo)

(16) Outlines standard of care required of the conservator. Outlines certain powers of the conservator exercisable without prior authorization or approval of the court. (Section 475.130 RSMo)

(17) Sets forth certain protections for third persons dealing in good faith with a conservator. (Section 475.134 RSMo)

(18) In certain circumstances the court may waive strict accounting requirements concerning federal benefits payable for the protectee. (Section 475.130 RSMo)

(19) Provisions are made for publication of notice in conservatorship cases with deferment or waiver of publication allowed in certain instances. (Section 475.140 RSMo)

(20) Inventory requirements are expanded to include joint tenancy and tenancy by the entirety property and all policies of life insurance owned. (Section 475.145 RSMo)

(21) A creditor or other interested party can file a petition for the sale of estate assets to pay claims. (Section 475.200 RSMo)

(22) Claims against the estate of a protectee shall be divided into four classes giving first priority to court costs. (Section 475.211 RSMo)

(23) The court is given authority to waive or modify the requirements of filing a full, annual accounting if the estate meets indigency requirements or if the assets have been placed in restricted custody. (Section 475.270 and Section 475.276 RSMo)

(24) A new conservator is allowed to make final settlement of an estate for a deceased conservator. (Section 475.295 RSMo)

(25) The Court may dispense with a conservatorship if the estate is less than $10,000. (Section 475.330 RSMo)

(26) Chapter 632 provisions apply to temporary detention of one alleged to be disabled or incapacitated pending hearing. (Section 475.355 RSMo)

ATTACHMENT B

HOUSE BILL NO. 117

RELATING TO TRUST

DETAILED SUMMARY

Some of the major provisions of the bill include:

(1) Allows for the payment of life insurance benefits to a trust. (Section 456.030 RSMo)

(2) Permits a trust for the care of pet animals or specific noncharitable purposes, societies or organizations. Limited to 21 years or less if no lives in being. (Section 456.055)

(3) A trust of real or personal property may include a medical benefit plan. (Section 456.060)

(4) Provides that the wife and children have priority over spend thrift trusts. (Section 456.080 RSMo)

(5) Nonresident individuals and corporations of other states are allowed to act as trustees of Missouri property if authorized by Section 362.600 RSMo (Section 456.120 RSMo)

(6) Provides venue in trust actions. If court has jurisdiction, it may retain jurisdiction. (Section 456.210 RSMo)

(7) Provides 5 and 22 year statute of limitations on actions against a trustee. (Section 456.220 RSMo)

(8) Makes certain provisions in an insurance policy, contract of employment, bond mortgage, promissory note, stock certificate, deposit agreement, pension plan, trust agreement, declaration of trust, conveyance or any other written instrument effective as a gift, contract, conveyance or trust nontestamentary. (Section 456.360 RSMo)

(9) Unless negated or waived the trustee must account in writing at least annually. (Section 456.380 RSMo)

(10) Sets out venue, registration of a trust in the probate division, probate clerks duties, jurisdiction over the trustee, court proceedings involving a trust located in another state, inclusion of oaths or affirmations of truth. (Sections 456.400 thru 456.470 RSMo)

(11) Provisions governing the personal liability of trustees are covered. (Section 456.480 RSMo)

(12) The trustee's duty to perform as a "prudent man" along with powers and duties the trustee must perform, exercise of power

by a majority of three or more trustees, duties of co-trustees, third party actions of a trustee, the giving of a lease by a trustee or beneficial owner of land, and management or administration of property by the trustee are covered in Section 456.500 thru 456.600 RSMo)

(13) Publishing of notice by the trustee and the form to be used along with the certification of death certificates are covered in Section 456.610 and 456.620 RSMo.

(14) Makes provisions for the handling of unclaimed property. (Section 456.640 thru 456.660 RSMo)

(15) Standards for administering a trust are covered along with provisions for handling income and principle of a trust, expenses incurred in connection with the settlement of a decedents estate, handling of corporate distributions as principle, handling of receipts as income and principle, along with charges to be made against income are provided for in Sections 456.700 thru 456.820 RSMo.

ATTACHMENT C

HOUSE BILL NO. 369

ADMINISTRATION OF ESTATES

DETAILED SUMMARY

Some of the major provisions of the bill include:

(1) Creditors must file claims in court within six months from the date publication of the notice to file claims. (Section 473.033 RSMo)

(2) A deed of conveyance executed and delivered pursuant to a court order, shall convey property rather than just land. (Section 473.310 RSMo)

(3) Distribution may be made to any person holding a power of attorney which is properly authenticated and executed in accordance with the law of the place of execution or to a personal representative, guardian, or conservator of a distributee. (Section 473.657 RSMo)

(4) If an independent personal representative becomes aware of any property not included in the original inventory, the independent personal representative shall send a copy of any supplementary inventory to interested persons at their request. (Section 473.800 RSMo)

(5) A person who in good faith deals with an independent personal representative for value is protected as if the independent personal representative properly exercised his power. The fact that a person knowingly deals with an independent personal representative does not require the person to inquire into the existance of a power or the propriety of its exercise. No conveyance or transfer by the independent personal representative to a bona fide purchaser for a valuable consideration shall be set aside on the grounds that the independent personal representative to a bona fide purchaser for a valuable consideration shall be set aside on the grounds that the independent personal representaive was not acting reasonably for the benefit of the interested person. Interested persons can recover damages from the independent personal representative for his failure to act reasonably for their benefit. (Section 473.811 RSMo)

(6) The statement of account filed by the independent personal representative shall provide that distribution of robate assets will occur unless objection to the proposed distribution is filed in court within twenty days. (Section 473.840 RSMo)

(7) If distribution in kind is made, the independent personal representative shall execute an instrument or deed of distribution assigning, transferring, or releasing the assets to the distributee as evidence of title to the property. An instrument or deed from an independent personal representative shall be conclusive evidence that the distributee has succeeded to the interest of the estate in the distributed assets. The independent personal representative may recover the assets or their value if the distribution was improper. Unless the distribution or payment of property can no longer be questioned because of adjudication, estoppel, or limitation, a claimant, who was improperly paid, is liable to return the property received, and its income since distribution. If he no longer has the property, then he is liable to return the value as of the date of disposition, and its income and gain received by him. (Section 473.844 RSMo)

(8) If property distributed in kind or a security interest therein is acquired for value by a purchaser from or lender to a distributee who has received an instrument or deed of distribution from the independent personal representative, or is so acquired by a purchaser from or lender to a transferee from such distributee, the purchaser or lender takes title free of the rights of any interested person in the estate, and incurs no personal liability. This is the case whether the distribution was proper or supported by court order or the authority of the independent personal representative was terminated before execution of the instrument or deed. The purchaser or lender is protected even if the distributee was the independent personal representative.